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Attorneys for Defendants<sup>1</sup>

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

XIU FANG LUO,	)	No. C 08-0340 PJH
	)	
Plaintiff,	)	
	)	
v.	)	OBJECTION TO PRO HAC VICE
	)	ADMISSION AND REQUEST FOR
MICHAEL CHERTOFF, Secretary,	)	RECONSIDERATION OF ORDER
Department of Homeland Security; et al.,	)	GRANTING ADMISSION
	)	
	)	
Defendants.	)	
	)	

Defendants hereby object to the application by Plaintiff's counsel, Bruce C. Wong, for pro hac vice admission, and respectfully ask the Court to reconsider its Order dated January 30, 2008, granting that application. Defendants were not served with a copy of Plaintiff's application, and were therefore unaware of it until undersigned counsel was assigned to this action on January 30, 2008. See Declaration of Melanie Proctor (attached as Exh. A). The application appears to be in violation of Civ. L.R. 11-3(b), which disqualifies applicants who reside in the State of California or who are regularly engaged in the practice of law in the State of California.

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<sup>1</sup>Defendants appear specially for the purpose of opposing Plaintiff's counsel's application for pro hac vice admission and requesting reconsideration of the Court's Order dated January 30, 2008. Defendants reserve the right to assert all appropriate defenses in any responsive pleading.

1 Plaintiff's counsel appears to meet both disqualification factors. His place of business is  
 2 located at 580 California Street, Suite 1600, San Francisco, California, 95104. See Complaint.  
 3 Moreover, he has apparently appeared before the Northern District of California on at least four  
 4 other cases. See Chen v. Gonzales, No. 05-429 JSW; Yang v. Chertoff, No. 05-4405 MHP; Qi v.  
 5 Gonzales, No. 06-7180 MHP; de Sandoval v. Gonzales, 07-4077 MJJ; Afsari v. Chertoff, No. 07-  
 6 3028 MEJ.

7 As explained by the Ninth Circuit, "pro hac vice refers to an attorney who is admitted  
 8 temporarily to practice in a jurisdiction for the purpose of participating in a particular case." Gallo  
 9 v. United States Dist. Court for D. Ariz., 349 F.3d 1169, 1173 n.1 (9th Cir. 2003) (citing Blacks'  
 10 Law Dictionary 1227 (7th ed. 1999)). As demonstrated above, Mr. Wong has requested admission  
 11 on a number of cases. His repeated pro hac vice applications frustrate both the local rule and the  
 12 California Business & Professions Code. See Civ. L. R. 11-3(b); Cal. Bus. & Prof. Code § 6125;  
 13 see, e.g., Paez v. Chertoff, No. 07-5240 MJJ, Docket No. 7 (N.D. Cal. Dec. 12, 2007) (denying  
 14 attorney's request for pro hac vice admission because attorney resided in California and regularly  
 15 engaged in the practice of law in the Northern District of California, and ordering attorney to include  
 16 a copy of the order in all future applications for pro hac vice admission) (attached as Exh. B). Here,  
 17 as in Paez, Plaintiff's counsel failed to disclose in his application for pro hac vice admission that he  
 18 resides in California and regularly engages in the practice of law in this State. See Luo v. Chertoff,  
 19 No. 08-0340 PJH, Docket No. 2; Paez, No. 07-5240, Docket No. 7.

20 Defendants respectfully request the Court to reconsider its Order dated January 30, 2008, and  
 21 to deny the application.

22 Dated: January 31, 2008

Respectfully submitted,

23 JOSEPH P. RUSSONIELLO  
 24 United States Attorney

25 /s/  
 26 MELANIE L. PROCTOR  
 27 Assistant U.S. Attorney  
 28 Attorneys for Defendants

## EXHIBIT A

JOSEPH P. RUSSONIELLO (CSBN 44332)  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

XIU FANG LUO,	)	No. C 08-0340 PJH
	)	
Plaintiff,	)	
	)	
v.	)	DECLARATION OF MELANIE PROCTOR
	)	
MICHAEL CHERTOFF, Secretary,	)	
Department of Homeland Security; et al.,	)	
	)	
	)	
Defendants.	)	

I, Melanie Proctor, declare and state as follows:

1. I am employed by the United States Attorney's Office, Northern District of California, as an Assistant United States Attorney. My current employment address is 450 Golden Gate Avenue, Box 36055, San Francisco, California, 94102

2. On January 30, 2008, I was assigned to the above captioned action.

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<sup>1</sup>Defendants appear specially for the purpose of opposing Plaintiff's counsel's application for pro hac vice admission and requesting reconsideration of the Court's Order dated January 30, 2008. Defendants reserve the right to assert all appropriate defenses in any responsive pleading.

PROCTOR DECLARATION  
No. C 08-0340 PJH

/s/  
MELANIE L. PROCTOR

**EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAIME LOPEZ PAEZ,  
Plaintiff,  
v.

No. C07-05240 MJJ

**ORDER DENYING MOTION FOR  
ADMISSION OF ATTORNEY *PRO HAC*  
VICE FOR JEFFREY GRIFFITHS**

MICHAEL CHERTOFF,  
Defendant.

Before the Court is an application for attorney admission *pro hac vice* by Jeffrey Griffiths, who represents that he is an active member in good standing with the bar of the Indiana Supreme Court. (Docket No. 3.) Defendants oppose the application.

On November 5, 2007, the Court ordered Mr. Griffiths to submit a declaration stating facts that would demonstrate why he is qualified for admission *pro hac vice* under the requirements of Civil Local Rule 11-3(b). The Court has reviewed Mr. Griffiths' sworn declaration. (Docket No. 6.) In it, Mr. Griffiths states that he resides within the state of California (§ 3), and also that he has applied for *pro hac vice* admission in approximately ten different cases before the Northern District of California in the past year (§ 10). Mr. Griffiths did not disclose either of these salient facts in his original application.


The Court finds that Mr. Griffiths does not satisfy the requirements of Civil Local Rule 11-3(b) for *pro hac vice* admission. Civil Local Rule 11-3(b) expressly states that Mr. Griffiths is not eligible for permission to practice *pro hac vice* if he resides in the state of California. Civil Local Rule 11-3(b)

1 also states that Mr. Griffiths is not eligible for permission to practice *pro hac vice* if he is “regularly  
2 engaged in the practice of law in the State of California.” Mr. Griffith’s numerous applications for *pro*  
3 *hac vice* admission over the past year raise a concern that he is engaging in the regular practice of law  
4 in California. Mr. Griffiths’ declaration does not set forth any facts that would allow him to fall within  
5 the exceptions recognized by Civil Local Rule 11-3(b).

6 Pursuant to Civil Local Rule 11-3(b), the Court **DENIES** Mr. Griffiths’ application for *pro hac*  
7 *vice* admission. Moreover, in the interests of ensuring that the Judges of this Court are able to consider  
8 future *pro hac vice* applications from Mr. Griffiths based on a full record, Mr. Griffiths is further  
9 **ORDERED** to file a copy of this Order together with any *pro hac vice* applications that he submits,  
10 from this date forward, in any matter before the United States District Court for the Northern District  
11 of California.

12 **IT IS SO ORDERED.**

13  
14  
15 Dated: December 12, 2007

  
\_\_\_\_\_  
MARTIN J. JENKINS  
UNITED STATES DISTRICT JUDGE